

SOUTH BEND REDEVELOPMENT COMMISSION SPECIAL MEETING

October 2, 2006

3:30 p.m.

Presiding: Marcia I. Jones, President

227 West Jefferson Boulevard
South Bend, Indiana

1. ROLL CALL

Members Present:

Ms. Marcia Jones, President

Mr. Greg Downes, Secretary

Mr. Hardie Blake, Jr.

Members Absent:

Mr. Karl King, Vice President

Mr. William Hojnacki

Legal Counsel:

Ms. Cheryl Greene, Esq.

Mr. Shawn Peterson, Esq.

Redevelopment Staff:

Mr. Don Inks, Director

Ms. Sharon Kendall, Executive Director

Mrs. Cheryl Phipps, Recording Secretary

Mr. Andrew Laurent, Economic Development Specialist

The meeting commenced at 3:45 p.m.

2. APPROVAL OF MINUTES

There were no Minutes for approval/

3. APPROVAL OF CLAIMS

There were no Claims submitted for approval.

4. COMMUNICATIONS

There were no Communications.

THERE WERE NO COMMUNICATIONS

5. OLD BUSINESS

There was no Old Business.

THERE WAS NO OLD BUSINESS

6. NEW BUSINESS

A. Tax Abatements

There were no Tax Abatements.

6. NEW BUSINESS (CONT.)

B. Housing

There was no business from Housing.

C. South Bend Central Development Area

There was no business in the South Bend Central Development Area.

D. Sample-Ewing Development Area

(1) Staff report on acquisition of property in the Sample-Ewing Development Area. (South Bend Lathe)

Mr. Laurent noted that staff has had ongoing negotiations with South Bend Lathe for approximately one and one-half years, since the Commission sent its purchase offer in the amount of \$10 for the property. Staff and representatives of ARG Corporation have come to terms on the Purchase Agreement that is before the Commission today. The proposed Purchase Agreement sets an agreed-upon purchase price of \$663,071.84 for the two parcels located at 400 W. Sample Street. Under the terms of the Agreement, the Commission would assume back taxes and penalties in the amount of \$336,928.16. As part of the Purchase Agreement, ARG Corporation would be granted a right of first refusal on a parcel of property to be replatted in the northwest corner of Studebaker Area A (corner of Sample and Chapin St.). The acreage of the parcel is to be determined, but ARG would be given a right of first refusal for three years after closing on the Commission's purchase of the SBL property. ARG would have the right to purchase the parcel at a purchase price of \$44,300 per

6. NEW BUSINESS (CONT.)

D. Sample-Ewing Development Area

(1) continued...

acre. The Purchase Agreement further requires that the transaction to purchase 400 W. Sample be closed on or before December 15, 2006. The property owner, ARG Corporation, has until the closing date to remove any non-fixture personal property from the building and is further required to remove the various automobiles and other items that are currently being stored on the property.

The Purchase Agreement contains language related to the environmental conditions existing on the property in order to protect the Commission and allows the Commission and City of South Bend to seek cost recovery from any historic insurance policies related to environmental remediation of this property. Staff recommends approval of the Purchase Agreement. Staff believes that the Purchase Agreement memorialized the best deal that staff and legal counsel could make on this property on the Commission's behalf, without resorting to eminent domain proceedings, which can be very uncertain.

Ms. Greene noted that the property owner has executed a Corporate Warranty Deed which conveys ARG's interest in the property to the Commission and executed a letter of instruction to Meridian Title Corporation instructing Meridian Title to hold the Corporate Warranty Deed until the December 15 closing, if the Commission approves the terms of sale. All documents necessary to effect the final transfer of

6. NEW BUSINESS (CONT.)

D. Sample-Ewing Development Area

(1) continued...

property to the Commission have been executed by ARG Corporation and are before the Commission today.

Mr. Peterson noted that the Special Meeting was required because on September 27, 2006, ARG had a hearing in St. Joseph County Circuit Court seeking to remove the property from the County tax sale list which will be held on October 6, 2006. Legal Counsel objected to the property being removed from the tax sale list. The court's ruling was that, in the event that the parties reached an agreement to terms as expressed in a purchase agreement by the close of business on October 2, 2006, the property would be removed from the tax sale list and the City would be allowed to petition the State of Indiana for removal of taxes. Under the agreed terms of the Purchase Agreement, the City will take possession of the SBL property a year sooner than it might have in a tax sale situation and at least three months sooner than it might have if it acquired the property using eminent domain.

Mr. Laurent noted that the South Bend Lathe property is one of the most integral parts of the Studebaker Corridor Redevelopment. It is the most visible piece of property and the one most people think of when Studebaker Corridor is mentioned. Acquiring this property and demolishing it will give the public perception of the City finally making progress on redeveloping Studebaker Corridor.

6. NEW BUSINESS (CONT.)

D. Sample-Ewing Development Area

(1) continued...

Mr. Downes asked what the City's chances are to get the taxes waived. Mr. Peterson responded that the City currently has several requests before the tax board and conversations he has had with the tax board indicate it should not be a significant obstacle. The tax board typically agrees. However, this is \$350,000 in taxes, so local county officials have reluctantly indicated they would join our petition, and because this property is "upside down" with the environmental conditions, the tax board would be inclined to waive the taxes so we can move ahead to remediate the environmental conditions.

Mr. Laurent noted that the City has past experience in getting taxes waived. The State waived over \$500,000 in taxes on the former Stamping Plant property when we acquired that. The State also waived several million dollars of taxes on the Uniroyal property in Mishawaka. The State has been a willing participant in brownfields redevelopment.

Ms. Jones asked how large the South Bend Lathe property is. Mr. Laurent responded that it is approximately 450,000 sft.

Ms. Jones asked what the likelihood would be that the current owner of the South Bend Lathe property, ARG Corporation as represented by its officer Mr. Norbert Toubas, would exercise its right of first refusal on the Sample-Chapin property. Mr.

6. NEW BUSINESS (CONT.)

D. Sample-Ewing Development Area

(1) continued...

Laurent responded that Mr. Toubas has discussed with us purchase of property in the Oliver site and the Studebaker site. However, we don't know what his business plans are.

Mr. Peterson noted that this right of refusal would not apply if the City wanted to convey the property to another City entity. This right only applies to this parcel which, when replatted and subdivided, will be a northwest parcel. It's not the entire parcel, but rather, is the most visible corner. If the City doesn't subdivide the property within the time set in the Purchase Agreement, the right of first refusal will expire. Only if the City determines to subdivide the entire site and offer a portion of the property to the public does the right of first refusal granted to ARG Corporation come into play.

Upon a motion by Mr. Downes, seconded by Mr. Blake and unanimously carried, the Commission approved the Contract of Purchase and Sale with ARG Corporation for property at 400 W. Sample Street in the Sample-Ewing Development Area. (former South Bend Lathe property)

COMMISSION APPROVED THE CONTRACT OF PURCHASE AND SALE WITH ARG CORPORATION FOR PROPERTY AT 400 W. SAMPLE STREET IN THE SAMPLE-EWING DEVELOPMENT AREA. (FORMER SOUTH BEND LATHE PROPERTY)

E. Airport Economic Development Area

There was no business in the Airport Economic Development Area.

6. NEW BUSINESS (CONT.)

F. South Bend Medical Services District

There was no business in the South Bend Medical Services District.

G. West Washington-Chapin Development Area

There was no business in the West Washington-Chapin Development Area.

H. South Side Development Area

There was no business in the South Side Development Area.

I. Northeast Neighborhood Development Area

There was no business in the Northeast Neighborhood Development Area.

J. Douglas Road Economic Development Area

There was no business in the Douglas Road Economic Development Area.

7. PROGRESS REPORTS

There was no report.

PROGRESS REPORTS

8. NEXT COMMISSION MEETING

The next meeting of the Redevelopment Commission is scheduled for Friday, October 6, 2006 at 10:00 a.m.

NEXT COMMISSION MEETING

9. ADJOURNMENT

There being no further business to come before the Redevelopment Commission, Mr. Blake made a motion that the meeting be adjourned. Mr. Downes seconded the motion and the meeting was adjourned at 3:53 p.m.

ADJOURNMENT

Donald E. Inks, Director

Marcia I. Jones, President